

A PROFESSIONAL CORPORATION

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December 29, 2010

Kenneth G. Roberts
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BY FAX (212-805-6111)

Honorable Henry Pitman
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Carter et al. v. 36 Hudson et al. v. FBR et al. v. L'Abbaye et al.
09 Civ. 4328 (DLC) (HP)

Dear Judge Pitman:

We represent third-party defendant FBR Construction Group LLC ("FBR") and its principal, third-party defendant Jay Furman ("Furman"), in the above-referenced action.

We respectfully request that we not be required to attend the January 4, 2011 hearing concerning the alleged November 17, 2010 settlement – because there is not, and cannot be, any allegation that we were involved in the alleged settlement.

On November 15, at 11:05 a.m., I wrote to all counsel: "FBR and Furman hereby withdraw their offer of settlement in this matter." (Copy attached).

Ten minutes later, at 11:15 a.m., plaintiffs' counsel, Mr. Sheps, replied: "How can you withdraw an offer never presented? But duly noted for whatever it's worth." (Copy attached) (emphasis added).

The next I heard was on November 17, when Mr. Sheps wrote to all counsel: "This email is to confirm a settlement of the case between the Carters and the named defendants for a joint package of \$160,000." (Copy attached).

Mr. Sheps has never alleged that FBR and Furman were part of the November 17 settlement – nor could he, in light of our express prior withdrawal.

Hon. Henry Pitman
December 29, 2010
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We therefore respectfully request that we not be required to appear on January 4th.

Respectfully submitted,

COZEN O'CONNOR

By: 

Kenneth G. Roberts (kroberts@cozen.com)

cc (by email): ALL COUNSEL:

Robert Sheps, Esq.

Fran Jacobs, Esq.

Steven Goldstein, Esq.

Bryan Schwartz, Esq.

Stephen Slater, Esq.

Aglaia Papadopoulos-Vlantes, Esq.

IF FBI SEEMS TO OFFER
ANY EVIDENCE ON THE ISSUE OF
WHETHER THERE IS A SETTLEMENT,
IT MUST DO SO AT THE JANUARY 4
HEARING. IN THE ABSENCE OF A
STIPULATION, I SHALL NOT CONSIDER
HEARSAY SUBMISSION MADE OUTSIDE
OF THE HEARING. COUNSEL IS FREE
TO ATTEND & PARTICIPATE IN THE
HEARING & IS ALSO FREE TO WAIVE
HIS RIGHT TO BE HEARD, AS
COUNSEL CHOOSES.

SO ORDERED


HENRY PITMAN
UNITED STATES MAGISTRATE JUDGE

12-29-10

Roberts, Kenneth G.

From: Roberts, Kenneth G.
Sent: Monday, November 15, 2010 10:36 AM
To: Aglaia Papadopoulos-Vlantes (vlantes@aol.com); Bryan Schwartz (bschwartz@lbbslaw.com); Fran Jacobs (fmjacobs@duanemorris.com); NASP[rsheps@shepslaw.com]; Stephen Slater (sslater@hwsllaw.com); Steve Goldstein (sgoldstein@sacslaw.com)
Cc: 'Jay Furman'; Simpson, James L.
Subject: Carter v. 36 Hudson v. FBR v. L'Abbaye

FBR and Furman hereby withdraw their offer of settlement in this matter.

Kenneth G. Roberts | Cozen O'Connor
277 Park Avenue | New York, NY 10172 | P: 212.883.4914 | F: 877.836.0591
kroberts@cozen.com | www.cozen.com

 Please consider the environment before printing this email or its attachments.

Roberts, Kenneth G.

From: Robert Sheps [rsheps@shepslaw.com]
Sent: Monday, November 15, 2010 11:15 AM
To: Roberts, Kenneth G.
Cc: vianter@aol.com; bschwartz@lbbbslaw.com; fmjacobs@duanemorris.com;
 sslater@hwsllaw.com; sgoldstein@sacslaw.com; Jay Furman; Simpson, James L.
Subject: Re: Carter v. 36 Hudson v. FBR v. L'Abbaye


How can you withdraw an offer never presented? But duly noted for whatever it's worth.

Regards,
 Robert Sheps

On Nov 15, 2010, at 11:05 AM, "Roberts, Kenneth G." <KRoberts@cozen.com> wrote:

FBR and Furman hereby withdraw their offer of settlement in this matter.

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Roberts, Kenneth G.

From: Robert Sheps [rsheps@shepslaw.com]
Sent: Wednesday, November 17, 2010 12:00 PM
To: Jacobs, Fran M.; Aimee Alix
Cc: bschwartz@ibbslaw.com; Roberts, Kenneth G.; Steven Goldstein; 'Beitler, Jeffrey R.'; sslater@hwsllaw.com; vlantes@aol.com; Newman, Thomas R.
Subject: RE: Carter v. 36 Hudson

This email is to confirm a settlement of the case between the Carters and the named defendants for a joint package of \$160,000.

Please provide me the specific breakdown of payments unless you are going to prepare the releases.

Thanks and regards,

Robert C. Sheps
Sheps Law Group, P.C.
35 Pinelawn Road
Suite 106 East
Melville, New York 11747
(ph) 631-249-5600 ext. 1002
(fax) 631-249-5613
(cell) 516-909-1228